The President having suspended the rules the Council considered the Bill.

Mr. Thanu Pillai.—I beg to move that the Bill as now placed before the Council be passed.

Mr. Kuruvila seconded.

Carried.

THE ABKARI REGULATION AMENDMENT BILL.

Mr. Thanu Pillai.—At the last meeting of the Council I endeavoured to explain the reasons for bringing forward this Bill and to give an outline of its main provisions. I scarcely think it necessary to make any further observations at this stage. Indeed I seriously doubt whether there is any scope at all for discussion at present. This is not an entirely new measure, but an improvement and elaboration of an existing Regulation, and is entirely based on the law in force in the Madras Presidency which has been found by experience to work satisfactorily. In a measure like this I fail to see how the principle can be detached from the general details. The ground principle may perhaps be taken to be this—that drink traffic should be regulated. I do not think there would be any difference of opinion on this point. There are no other general considerations, it seems to me, which do not partake of the character of details. But as such a discussion has been thought necessary I move that the principle be discussed and affirmed.

Seconded by Mr. Nagam Aiya.

Carried.

Mr. Kuruvila.—With all meekness, I beg to draw the attention of the Council to two important principles which, I think, are established by the existing Abkari Regulation, but are affected by the proposed amendment. The first is the absolute exemption of sweet toddy from the purview of the Regulation and the second is the freedom of the land-owner or tree-owner as such, from any liability for Abkari duties, such duties being levied solely from the professional dealer in Abkari articles.

But before dwelling on the grounds for the retention of these privileges, I beg to submit a word about the special caution with which the question of Abkari revenue has to be approached and also a few words as to the general direction in which I think the amendment should be made.

It is an acknowledged principle that the Legislature should imagine itself in the position of those who are to be affected by the legislation to enable it to appreciate all the shades of the subject dealt with. But toddy and arrack which form the main subject of Abkari legislation have been long enveloped in social contempt; and though in European countries, beer and ale count their votaries even among prime ministers, none of my honored colleagues would relish the idea of being credited with even a personal acquaintance with toddy or arrack. The laboring classes who like the pristine tiller of the field, understand the ecstasy of heavenly bliss through their experience of moderate intoxication after a day's hard work and exposure are outside the pale of honorable society; and the ignorance of the conditions in which a revenue of six lacs and more is gladly paid by them is likely to dry up the springs of sympathy in the noble hearts around me. In Meenachel and other damp districts, there are several villages in which toddy-drinking has no social stigma and there are several hardworking families who usually take only one cereal meal, the other meal or meals being substituted by toddy. In my incognito travelling, I have heard a mother comfort her only son about 3 years old in his difficulty to swallow a quinine solution, by assuring him that the draught is nothing but good arrack. In the marshy and submerged districts, the laborers who have to keep themselves in water for four and five hours continuously for making bunds for the Punjah fields and other duties, find the chief vehicle and substance of their food in toddy. I should not be misunderstood as being blind to the real evil connected with intoxication. I only beg you to consider that there is another side to the question and that drunkenness is not confined to idlers and vagabonds and that the laboring and poor classes who form the majority in every clime and country as in Travancore should command our sympathy when we wield the legislative power for interfering with their important source of food and comfort.

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As to the general direction in which the existing Regulation should be amended, my idea is that as the real evil of drunkenness is mainly attached to arrack, and as the chief disparity between British India and Travancore that requires a correction lies in the price of arrack in the two countries, all the special stringency of administration should be directed against arrack, and by the adoption of the Central Distillery system, a heavy duty should be imposed on arrack so as to make its price here approach its price in British India. Toddy subjected to alcoholic fermentation should, I think, be mercifully dealt with as it is at present, as its usefulness and necessity for the majority of the population demand special consideration. The case of sweet toddy and of the party to whom the incidence of Abkari tax should be confined will be dealt with in my objections to the proposed amendment.

As regards the inclusion of sweet toddy in the Bill, the explanation given in the learned mover's introductory speech does not appear to me to be a sufficient cure for the proposed innovation. The provision for exemption alluded to in the explanation is not positive. It is of contingent application and the conditions of such contingency are undetermined. The desire for assimilating our Regulation to the Madras Act should not, I think, make us forget that Malabar is the only Madras district that has some approach to a similarity with our conditions. I understand that there are some special Abkari rules for Malabar; but I have not been able to secure a copy of those rules. It would be useful if Government can be moved to secure a copy for the Council. But I beg to point out that even the contingent provision proposed in the Bill is deficient as regards the scope of protection for the conditions of Travancore. Jaggery is not the only product of sweet toddy in this country. Pani-പാനി and its deposits are common articles of food and merchandize in North Travancore; and the majority of the people in whom the faculty of gustativeness is pretty acute, consider themselves happy if they have a cow, a plantain and a palmyrah in their yard, as the mixture of Thyir and Pani and Plantain is the crown of their meal. In numberless houses several sorts of sweet-meats are also usually made of sweet toddy. Further, there are several cases in which luxuriant cocoanut trees are subjected to the toddy drawer's manipulation in order to regulate and improve the yield in nuts. The success of this operation depends upon the freedom with which it can be commenced and discontinued. To protect all these cases, nothing short of absolute exemption of sweet toddy as such is likely to answer, and this privilege has all along been enjoyed by the public. The definition of liquor in the existing Act confines the word to intoxicating liquors in the manufacture of which, distillation or fermentation takes place. The Bill, however, interprets the word as including unfermented juice drawn from any kind of palm tree. This, I beg to submit, would result in serious oppression or reduction of income and convenience to the public. It has to be remembered that Section 52 of the Bill attaches a heavy penalty (1000 Rs. fine or six months' imprisonment or both) to the simple act of tapping a toddy-producing tree or of drawing toddy from any tree. Section 61 further subverts the common current of law and enjoins the presumption of guilt on the persons charged under the Section. Another amendment (Section 64) empowers an Abkari officer to negotiate for a monetary compensation for certain offences. Section 28 further invests Abkari and Police officers drawing 10 Rs. pay with power to enter and search any place by day or night and to seize any thing found therein which they have reason to believe to be liable to confiscation. Considering these stringent provisions and special powers for the protection of the Abkari revenue, I am positively of opinion that the privilege that the public have all along enjoyed as regards sweet toddy should be continued to them intact. The regard thus shown to the public welfare in Abkari administration will, I think, not only tend to make the Abkari Department bearable and acceptable, but will also indirectly help to augment the number of trees yielding Abkari articles, as the protection of sweet toddy will enable and encourage the toddy-drawers to tap several trees of doubtful yield which may otherwise be left unworked.

The second principle that I wish to be honored is the confinement of Abkari tax to the Abkari profession. Clause (e) of Section 16 and Section 17 taken together tend to combine the interests and duties of the landowner with those of the toddy-drawer. This, I think, is unwise and uncalled for. The sanctity and

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integrity of the Revenue Settlement should be the last ground for violation in the search for special taxation. If the object of yoking the landowner with the toddy-drawer is to prevent default on the part of the toddy-drawer, the Bill itself provides an efficient remedy for default in Section 22 by requiring security for the licensee's fulfilment of agreement. If the step is taken to prevent the owner from perpetrating Abkari frauds, Section 58 provides ample penalties for any person who abets the evasion or breach of the provisions of the Bill. If the object is to make the landowner an informant Section 36 provides for it. The last clause of Section 14 appears to show that the Bill recognizes a difference between a private farmer's actions and the actions of a Government Department directly managing the farm. As Section 18 provides that all duties under the Regulation may be farmed, I beg to submit that all channels for molesting non-Abkari ryots other than those now open to the Abkari farmer should be scrupulously closed against the Abkari Department as well for the ryot's peaceful enjoyment of his land as for the dignity of the Land Revenue Administration.

Mr. Ramier.—I beg to support Mr. Thanu Pillai's motion. My friend Mr. Kuruvila's observations are best considered, I think, while dealing with the provisions of the Bill in detail.

Mr. Sankara Menon.—I have a few observations to make on this Bill and, with your permission, Sir, will place them before the Council.

The system of Abkari administration which now obtains in Travancore is what is generally called the 'Farming System.' It is briefly this—The exclusive privilege for both manufacture and sale of all spirituous liquors within defined tracts, is given to contractors for a fixed period for a lump sum determined by competition. The contractors generally sub-let for a profit. They make their own arrangements for getting material and are bound to sell liquor only at prices fixed by Government.

This system is found inefficient inasmuch as the statistical and administrative control given by it is insufficient for the purposes of Government and there is no certainty as to the quantity of liquor sold, nor is there any effective control over its selling price or quality. Moreover, as it is the interest of the contractor to make the largest possible profit, he cheapens its price, thereby increasing and stimulating consumption to the detriment of public health and morality.

There are certain fundamental principles which have to be kept in mind in providing rules for the Abkari Revenue administration. The first and most important is that the practice to be controlled is a "dangerous luxury" and therefore its regulation is a legitimate function of Government. The next principle is that the most efficient way to regulate the practice is to take steps for raising a revenue upon it, as taxation is that which most intimately touches the people. The third is that the agency employed by Government in these measures should not be such as to stimulate the practice while nominally repressing it by taxation; and the last is that it is useless to push taxation so far as to run the risk of thereby encouraging illicit usages or smuggling.

The Regulations under which the Abkari revenue is now realised do not sufficiently recognise the importance of the last two principles mentioned above. The proposed Bill aims to improve the existing law by adopting to their full extent these two principles which are also embodied in Madras Act 1 of 1886. This Act was passed there to remedy the evils of the 'Farming System' which was introduced by Madras Act 3 of 1864 from which our existing law is taken. The course of events which in Madras led to the repeal of Act 3 of 1864 in favour of the Act of 1886 is worth considering in this connection. The Act of 1864 was first amended by Act 5 of 1879. The amendments were principally in the direction of more stringent measures for the repression of illicit distillation, by rendering the mere possession of implements of manufacture and of illicit liquor a penal offence, and the enlargement of the powers of the Police and heads of villages for the detection of offences connected with the Abkari Law. Increased facilities were also given to sub-renters for the recovery of their dues from shop-keepers and the Board of Revenue were empowered to prohibit sub-renting altogether where such a step might seem desirable.

Finding that even this did not work well, a course of 'excise experimental system' which was originally tried and found successful in 1869 in the Ganjam

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District was extended to South Arcot and a few other Districts. On this system the Board of Revenue wrote thus in 1872—"The Board are strongly of opinion that the excise system, when trustworthy distillers can be found, as in the present case, is far preferable to farming out the monopoly by public competition, because the actual consumption of spirits in the Districts is now ascertained in this way, and competition constantly results in such reckless bidding that the renters have to exhaust all possible devices to get a large amount of liquor sold and to importune the Board for frequent remissions, whilst they are often ruined in spite of all and the security of the revenue is a matter of unceasing anxiety. The comparative advantages of the excise system are so patent that the Board think it well worth while to run a small financial risk in order to obtain them." The Government agreeing, the system was further extended as mentioned above.

This system may be summarised thus: It gave the monopoly of manufacture and sale in a District to one person or a firm who paid a fixed excise on each gallon of spirits leaving the distillery and sold it under the Regulations and restrictions as to number of shops, minimum price &c. of the Farming system, with the further precaution that dilution was not allowed. This system was better than the Farming system in that it gave Government the means of ascertaining the exact quantity of spirits consumed and because the quantity consumed being taxed at so much a gallon the inducement to fresh consumption is lessened. Even these changes did not solve the problem which was to devise a system which shall allow a sufficient range of rates, while affording reasonable security that the highest possible rates shall be reached in each locality. It was with these changes that Act 1 of 1886 was passed on the lines of which the proposed Bill is drafted.

The object of this Act was, in short, the improvement of the revenue by the concentration on the subject of the attention of a single responsible officer of standing and experience, by the power under the rules of varying its treatment as circumstances may require and by the substitution, for the irregular and imperfect preventive action of the contractors, of the uniform and persistent pressure of a well-organised and well paid department of the State. Provision was also made for the regulation and repression by taxation of the use, hitherto quite unrestricted, of such intoxicating drugs as Ganja &c. which are highly injurious both to the moral and physical wellbeing of the people.

Now that the history of the Abkari Administration here has been more or less the same as in the Madras Presidency, and as we have been following pretty closely on the lines of Madras Legislation, this Bill modelled after Madras Act 1 of '86 in the light of ten years' experience of its working there is nothing but a legitimate remedy for the defects we find in our present system.

It may be added here that just now a similar course of Legislation is being initiated by Sir Anthony MacDonnell in the N.W.P. where the same Farming System exists.

With these observations I have great pleasure in giving my cordial support to the principle of the Bill.

Mr. Thanu Pillai.—I may be permitted to observe that the very points raised by my friend Mr. Kuruvila were raised and duly considered by the Madras Legislative Council when the Bill which became Act I of 1886 was before that body; and I may assure him that the points do call for and would certainly receive the most anxious consideration of the Select Committee. I may now take it, I suppose, that the necessity of the measure has been unanimously affirmed and I would ask the Council to refer the Bill to a Select Committee which, I am anxious, should be as large as possible that the various interests involved may receive full consideration. I beg therefore to move that it be referred to a Select Committee composed of the 3 non-official members—Messrs. Sankara Menon, Ramier and Kuruvila—Mr. Krishnaswamy Rao and the mover. I would couple with the motion the request that they would submit their report within a fortnight. The matter is urgent. In fact, some of the provisions have had already to be brought into force in anticipation, under section 10 of the Council Regulation.

Seconded by Mr. Nagam Aiya.

Carried.

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